

CLOSED, ECF

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:12-cv-04757-AJN**

Natural Resources Defense Council, Inc. v. United States Food
and Drug Administration et al
Assigned to: Judge Alison J. Nathan
Related Case: 1:13-cv-03659-AJN
Cause: 05:552 Freedom of Information Act

Date Filed: 06/18/2012
Date Terminated: 07/10/2013
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**Natural Resources Defense Council,
Inc.**

represented by **Jennifer Ann Sorenson**
Natural Resources Defence Council,
Inc(SF)
111 Sutter Street , 20th Floor
San Francisco, CA 94104
(415)-875-6100
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PRO HAC VICE
ATTORNEY TO BE NOTICED

Mitchell S. Bernard
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V.

Defendant

**United States Food and Drug
Administration**

represented by **Amy Ann Barcelo**
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(212) 637-6559
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Defendant

Center for Veterinary Medicine

represented by **Amy Ann Barcelo**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/18/2012	<u>1</u>	COMPLAINT against Center for Veterinary Medicine, United States Food and Drug Administration. (Filing Fee \$ 350.00, Receipt Number 1041239) Document filed by Natural Resources Defense Council, Inc. (mro) (Entered: 06/21/2012)
06/18/2012		SUMMONS ISSUED as to Center for Veterinary Medicine, United States Food and Drug Administration. (mro) (Entered: 06/21/2012)

06/18/2012		Magistrate Judge Andrew J. Peck is so designated. (mro) (Entered: 06/21/2012)
06/18/2012		Case Designated ECF. (mro) (Entered: 06/21/2012)
06/29/2012	<u>2</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 9/7/2012 at 12:15 PM in Courtroom 17B, 500 Pearl Street, New York, NY 10007 before Judge Alison J. Nathan. (Signed by Judge Alison J. Nathan on 6/29/2012) (ama) (Entered: 07/02/2012)
07/02/2012	<u>3</u>	MOTION for Jennifer A. Sorenson to Appear Pro Hac Vice. Document filed by Natural Resources Defense Council, Inc.(pgu) (pgu). (Entered: 07/02/2012)
07/06/2012		CASHIERS OFFICE REMARK on <u>3</u> Motion to Appear Pro Hac Vice in the amount of \$200.00, paid on 07/02/2012, Receipt Number 1042538. (jd) (Entered: 07/06/2012)
07/06/2012	<u>4</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>3</u> Motion for Jennifer A Sorenson to Appear Pro Hac Vice. (Signed by Judge Alison J. Nathan on 7/6/2012) (cd) (Entered: 07/09/2012)
07/20/2012	<u>5</u>	ANSWER to <u>1</u> Complaint. Document filed by Center for Veterinary Medicine, United States Food and Drug Administration.(Barcelo, Amy) (Entered: 07/20/2012)
08/14/2012	<u>6</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Center for Veterinary Medicine served on 6/19/2012, answer due 7/10/2012; United States Food and Drug Administration served on 6/19/2012, answer due 7/10/2012. Service was made by MAIL. Document filed by Natural Resources Defense Council, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Bernard, Mitchell) (Entered: 08/14/2012)
08/16/2012	<u>7</u>	ENDORSED LETTER addressed to Judge Alison J. Nathan from Jennifer A. Sorenson dated 8/15/2012 re: Counsel for plaintiff writes to request an adjournment of the initial pretrial conference currently scheduled for Friday, September 7, at 12:15 PM. ENDORSEMENT: The initial Pretrial Conference is re-scheduled for Friday, Sept. 14, 2012 at 11:30am in Courtroom 17B. (Signed by Judge Alison J. Nathan on 8/16/2012) (pl) (Entered: 08/17/2012)
08/16/2012		Set/Reset Hearings: Initial Conference set for 9/14/2012 at 11:30 AM in Courtroom 17B, 500 Pearl Street, New York, NY 10007 before Judge Alison J. Nathan. (pl) (Entered: 08/17/2012)
09/06/2012	<u>8</u>	ENDORSED LETTER addressed to Judge Alison J. Nathan, from Amy A. Barcelo, dated 9/5/2012, re: pursuant to the Court's order of June 29, 2012 and in anticipation of the initial pretrial conference scheduled on September 14, 2012 at 11:30 a.m. Because this is an action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), we understand Local Civil Rule 16.1 to exempt it from the requirement of a mandatory scheduling order contained in Fed. R. Civ. P. 16(b). Accordingly, the parties request that they be relieved of their obligation under the June 29, 2012 order to submit a copy of the Court's Civil Case Management Plan and Scheduling Order, which we understand to be designed to fulfill that requirement. ENDORSEMENT: SO ORDERED. The parties shall provide their proposed Schedule to the Court on or before September 13, 2012. (Signed by Judge Alison J. Nathan on 9/6/2012) (ja) (Entered: 09/06/2012)
09/14/2012		Minute Entry for proceedings held before Judge Alison J. Nathan: Initial Pretrial Conference held on 9/14/2012. (snu) (Entered: 09/14/2012)
09/14/2012	<u>2</u>	STIPULATION AND ORDER: IT IS STIPULATED AND AGREED, by and between NRDC and the Government that: 1. The Government will process and release non-exempt records that are responsive to NRDC's April 20, 2012 FOIA request on a rolling basis, beginning with the results of any relevant qualitative microbial food safety risk assessments, and followed by any communications concerning such risk assessments. The Government will complete its production of non-exempt, responsive records to NRDC no later than five months from the date of entry of this order. 2. The Government will notify NRDC when it has completed its production. The date on which NRDC receives such notification will be referred to as the "completion date."3. Within 30 days of NRDC's receipt of a responsive

		<p>record from the Government NRDC will notify the Government, by e-mail to the agency contact person designated by the Government, of any objection(s) to any redaction(s) in the record. With respect to records produced fewer than 30 days prior to the completion date, NRDC will notify the Government of any such objections no later than 7 days after the completion date. A. Within 30 days after the completion date, the Government will produce to NRDC a "Vaughn" index cataloging (1) all redactions to which NRDC objected within the time periods set forth in paragraph 3, above, and (2) all responsive records withheld by the Government in their entirety. With respect to each redaction or withheld record, the Vaughn index will (1) identify the record or portion of the record withheld, including the author, recipient, date, and a description of the contents of the record; (2) identify the specific exemption asserted as a basis for withholding the record; and (3) provide a particularized explanation of why the asserted exemption applies. 5. Following NRDC's receipt of the Vaughn index, the parties will discuss and attempt to resolve any challenges that NRDC raises to the exemptions asserted by the Government. Within 30 days of NRDC's receipt of the Vaughn index, NRDC will, after conferring with the Government, either (1) move to dismiss its complaint with prejudice or (2) propose to the Court a briefing schedule for cross-motions for summary judgment. 6. Regardless whether or to what extent further litigation ensues, NRDC reserves its right to seek attorneys' fees under 5 U.S.C. § 552(a)(4)(E). (Signed by Judge Alison J. Nathan on 9/14/2012) (js) (Entered: 09/14/2012)</p>
03/19/2013		<p>**Please be advised that Judge Nathan's Courtroom and Chambers have been moved to the Thurgood Marshall United States Courthouse located at 40 Foley Square, New York, New York 10007. Effective immediately, all proceedings before the Court will take place in Courtroom 906, and the Court's Chambers located in Room 2102, of 40 Foley Square. The Court's other contact information, as set forth in the Court's Individual Rules and Practices, available at http://www.nysd.uscourts.gov/judge/Nathan, remains the same.** (snu) (Entered: 03/19/2013)</p>
04/17/2013	<u>10</u>	<p>ENDORSED LETTER addressed to Judge Alison J. Nathan from Jennifer A. Sorenson dated 4/15/2013 re: NRDC and the Government agree that it would be productive for both parties to spend an additional 30 days discussing and attempting to resolve the challenges that NRDC has raised to the exemptions asserted by the Government. NRDC therefore requests an extension until May 20, 2013, to move to dismiss or propose a summary judgment briefing schedule. ENDORSEMENT: SO ORDERED. (Motions due by 5/20/2013.) (Signed by Judge Alison J. Nathan on 4/17/2013) (rdz) (Entered: 04/18/2013)</p>
05/21/2013	<u>11</u>	<p>STIPULATION AND ORDER: IT IS STIPULATED AND AGREED, by and between NRDC and the Government, and subject to endorsement by the Court, that: 1. NRDC's claims have been resolved, with the exception of its claim to recover attorney fees and costs incurred in this action under 5 U.S.C. § 552(a)(4)(E). 2. The Court shall retain jurisdiction over this action for the limited purpose of adjudicating NRDC's claim for attorney fees and costs. 3. The parties will in good faith attempt to resolve NRDC's claim for attorney fees and costs. If the parties cannot do so, then NRDC will file a motion with the Court. 4. Once NRDC's claim for attorney fees and costs has been resolved, this case will be closed. ENDORSEMENT: Any such motion shall be filed on or before 6/21/13., (Motions due by 6/21/2013.) (Signed by Judge Alison J. Nathan on 5/21/2013) (lmb) (Entered: 05/21/2013)</p>
06/06/2013	<u>12</u>	<p>ENDORSED LETTER addressed to Judge Alison J. Nathan from Ellen London dated 6/6/2013 re: Request to extend the 6/21 deadline to file motion for attorney's fees to 7/5/2013. ENDORSEMENT: So Ordered. (Motion due by 7/5/2013.) (Signed by Judge Alison J. Nathan on 6/6/2013) (cd) (Entered: 06/07/2013)</p>
07/10/2013	<u>13</u>	<p>STIPULATION AND ORDER: The Government shall pay to NRDC the sum of twenty-four thousand five hundred dollars (\$24,500) for attorney fees and litigation costs. This payment shall constitute the full and final satisfaction of any claims by NRDC for attorney fees and litigation costs in this matter, and is inclusive of any interest. Payment shall be made as soon as practicable by electronic funds transfer, and counsel for NRDC will provide the necessary information to counsel for the Government to effectuate the transfer. This action is</p>

		hereby dismissed with prejudice and without costs or fees other than as provided in paragraph 1 of this Stipulation and Order, provided that the Court shall retain jurisdiction over any issues that might arise relating to the enforcement of this Stipulation and Order, and as further set forth in this document. (Signed by Judge Alison J. Nathan on 7/10/2013) (cd) (Entered: 07/11/2013)
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